City of Toronto.
Planning and Development Department.

WYCHWOOD PARK HERITAGE CONSERVATION DISTRICT STUDY: COMMENTS AND RECOMMENDATIONS

April 26, 1983

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April 26, 1983

To: Neighbourhoods Committee

Subject: Wychwood Park Heritage Conservation District Study: COMMENTS AND RECOMMENDATIONS

Origin: Neighbourhoods Committee meeting, February 24, 1983. (c71nhc83043:129)

Comments:

1.1 Background

At its meeting on Feburary 24, 1983 the Neighbourhoods Committee had before it the Wychwood Park Heritage Conservation District Study. The Committee decided:

"1. To request the City Solicitor to report on ways to allow owners to make alterations which do not affect the reasons for designation without requiring the approval of Council; such report to include information on the method used in the Meadowvale Heritage Conservation District.

2. To request the Commissioner of Planning and Development, in consultation with the Toronto Historical Board, to report on the process by which the City of Toronto Official Plan can be amended to designate Wychwood Park as a Heritage Conservation District.

3. To request the Commissioner of Planning and Development, in consultation with the Toronto Historical Board, to report on the possible exclusion of No. 49 Burnside Drive from the designation and on the proposal concerning No. 16 Wychwood Park contained in Recommendation (e) of the Wychwood Park Heritage Conservation District Study.

4. To defer the designation of Wychwood Park as a Heritage Conservation District, pending the receipt of the foregoing reports."

1.2 Summary

This report recommends:

(a) That the designation of Wychwood Park in the Official Plan as a Heritage Conservation District not be undertaken at least until suitable changes are made in the Ontario Heritage Act;

(b) That 49 Burnside Drive and 16 Wychwood Park remain as part of the Wychwood Park Heritage Conservation District Study Area;

(c) That the Commissioner of Planning and Development be requested to report further on the proposal to restrict future additional development to 3 new lots at 16 Wychwood Park in consultation with all relevant parties;

(d) That Council forward the Wychwood Park Heritage Conservation District Study report to the Ministry of Citzenship and Culture for endorsement;

(e) That designation of Wychwood Park as a Heritage Conservation District not be undertaken until steps are taken to amend Part V of the Ontario Heritage Act; and

(f) That the Minister of Citizenship and Culture be requested to amend Part V of the Ontario Heritage Act in order to enable Council to pass a by-law delegating its decision making power respecting minor alterations either to a Committee of Council or to a person or body appointed by the Council and to enable a municipality in such by-law to define minor alterations.

2. Discussion

Discussions were held in connection with all the three matters noted above. These discussions included the staff of the Ministry of Citizenship and Culture, the Ontario Heritage Foundation, the Official Plan Section of the Ministry of Housing and Municipal Affairs, the Toronto Historical Board, the Trustees of Wychwood Park and the parties concerned with the properties at 49 Burnside Drive and 16 Wychwood Park.

2.1 Process to be followed in amending the City's Official Plan to designate Wychwood Park as a Heritage Conservation District

The City has a standard process which is followed in every Official Plan amendment. This process includes notification, the holding of a public meeting sponsored by the Planning Board and consideration of the report. The Planning Board's recommendation is then forwarded to the Land Use Committee for further consideration.

The same process could be followed if or when it is decided to designate Wychwood Park as a Heritage Conservation District in the Official Plan. However, discussions with staff of the Ministries of Housing and Municipal Affairs and Citizenship and Culture and the City Solicitor indicated there is no special process required for amending the Official Plan in respect to the designation of a heritage conservation district provided the Official Plan makes provision for such districts. It is left up to the wishes of the Council of a municipality to decide whether to show the designated area in the Official Plan or not.

There are two aspects to understand concerning this matter. One concerns the provision of a policy in the Official Plan related to heritage conservation districts. The other concerns the actual designation of a specific heritage conservation district by Council.

The former has already been included in Section 1.1(h) of the Part I Official Plan. Section 1.1(h) of the Official Plan states as follows:

> "(h) Council will designate buildings and sites of historical or architectural merit and take all necessary steps to ensure their preservation. It shall be the policy of Council to establish Heritage Conservation Districts within the City on the basis of appropriate studies; and, in so far as it legally can, to take appropriate steps to ensure preservation of the heritage of buildings and sites, including all areas within the public domain, within such Districts.
>
> It is further the policy of Council that it will not establish any Heritage Conservation District under Part V of the Ontario Heritage Act without the approval of the Minister of Culture and Recreation."

The actual designation of a specific heritage conservation district would be completed when City Council approves the by-law under the Ontario Heritage Act designating Wychwood Park as a Heritage Conservation District.

The Official Plan Amendment process is cumbersome and does not appear to offer any particular advantage. Although it is not essential, if Council wishes, it could initiate an Official Plan Amendment to establish Wychwood Park as a Heritage Conservation District. However, it is recommended this not be undertaken at least until suitable changes are made in the Ontario Heritage Act.

2.2 49 Burnside Drive

The Neighbourhoods Committee requested a report on the possible exclusion of the property at 49 Burnside Drive from Wychwood Park.

Mr. Michael Vaughan and his wife are the owners of this property. In his letter of April 20, 1983 (see Appendix A), Mr. Vaughan has objected to the designation of Wychwood Park as a Heritage Conservation District. He has also requested that if the Park is designated his house be excluded from it. (The additional letters referred to in Appendix A have not been included in this report.)

The property at 49 Burnside Drive is located in the extreme south-east corner of Wychwood Park (see Map 1). The house fronts partly on Burnside Drive and has principal vehicular access from this street. An unpaved driveway also provides a right-of-way from the house to the Park. While this may appear unique, other houses in the Park gain principal vehicular access from Alcina Avenue, a street which is also outside of Wychwood Park.

The house was built around 1910 and has historically been considered part of Wychwood Park. The minimum lot frontage and the site plan control by-laws applicable to the Park include this property. The levy collected by the trustees from all the residents of the Park has also been collected from this property.

Given the context above, I find no reason to exclude 49 Burnside Drive from the Wychwood Park Heritage Conservation District Study Area.

2.3 16 Wychwood Park

The Neighbourhoods Committee requested a report on recommendation (e) of the Wychwood Park study. This permits the development of 3 new lots and retention of the existing house (see Maps 1 and 2).

In a letter dated March 31, 1983 (see Appendix B), Mr. Stanley Stein of Weir and Foulds, acting on behalf of the Morrow estate, stated that the trustees are opposed to the designation of Wychwood Park as a Heritage Conservation District.

The property at 16 Wychwood Park, owned by the late Mr. Morrow, was donated by him to the S. K. Morrow Foundation for charitable purposes. This is the largest property in the Park, comprising of 7 lots of record under Registered Plan No. 1092. The property has an area of 6,633 sq. m (71,400 sq. ft.). The house was built around 1910.

Mr. Stein has also questioned the architectural or historic qualities that make Wychwood Park eligible for designation. The

overall effect of the park-like setting in which the houses are located is unique in the City. There are many features which make up the overall setting of the Park. These features are outlined on page 16 of the Wychwood Park report in a statement of elements to support the designation. These are outlined below:

"Statement of Elements Supporting Designation of Wychwood Park as an Historic Conservation District

Wychwood Park has unique and outstanding features which give it heritage significance:

1. Architecture

Wychwood Park has a unique collection of important houses erected between the years 1905 and 1917 which represent very well the Canadian interpretation of the English Arts and Crafts movement associated with the work of architects, C.F.A. Voysey and M.H. Baillie Scott. The houses in Wychwood Park comprise the highest concentration of the work of talented Toronto archtiects, Eden Smith and his sons, as well as having superior houses by such other leading Toronto firms as Burke, Horwood and White, W.A. Langton and Sproatt and Rolph.

The houses of the 1920's and 1930's are generally as a group less significant. Nevertheless, a few are important characteristic residential works by leading Toronto firms of their day, including Craig and Madill, Allward and Gouinlock, and Marani and Paisley.

2. Planning

Wychwood Park is an early and very significant historic example in Canada of a planned private community. Both in its origins and through its continued operation, the Park has remained a unique, quiet and special community within the City.

3. Landscape

Wychwood Park is a richly landscaped Park which represents the principles of landscape design current in the late 19th and early 20th centuries. The style has been influenced by both the natural landscape movement in English landscape design associated with William Robinson and Gertrude Jekyll, and by the American picturesque landscape manner developed by Frederick Law

Olmsted and seen in a number of 'park' suburbs of the later 19th century."

As Map 1 indicates, the Morrow property is located close to the entrance of the Park. Its expansive landscaped grounds contribute to the park-like setting which is a basic characteristic of Wychwood Park. Demolition of the existing house and development of all 7 lots would alter this basic character. The Wychwood Park report recommends a compromise that restricts future additonal development to 3 new lots. The development of these lots would not affect the Park in such a manner as would the development to the rest of the grounds around the house.

While this recommendation has merit, it is suggested that planning staff be requested to report further on this proposal in consultation with the solicitor representing the F. K. Morrow estate, the Wychwood Park Trustees and the Toronto Historical Board. It is considered important to try first to resolve Mr. Stein's objection through a process of negotiation before acting on the recommendation discussed above.

2.4 Comments on Approval Procedure and Designation under the Ontario Heritage Act

As your Committe is aware the City Solicitor was requested to report on ways to allow property owners to make alterations to their houses which do not affect the reasons for designation without requiring Council approval. In his report of March 29, 1983 the City Solicitor indicated the existing legislation does not provide for such a process. It seems clear that property owners would therefore be required to obtain a permit from City Council to undertake any type of work including minor alterations to a building.

Area residents also requested that the procedure be investigated that is followed in the Meadowvale Heritage Conservation Ditrict. According to the City Solicitor it would appear the approval of Mississauga Council is also required with respect to minor alterations.

The existence of an approval system that does not involve the issuance of a permit by Council is obviously an important consideration to area residents in their desire to designate Wychwood Park as a Heritage Conservation District. Consultation with the Ministry of Citizenship and Culture revealed there is no initiative underway to amend Part V of the Ontario Heritage Act to enable Council to delegate its decision making power regarding minor alterations. Now that it is clear there is no legal mechanism to avoid Council approval, it is appropriate to

recommend that the Ministry of Citizenship and Culture now amend the Ontario Heritage Act.

A meeting was held prior to April 14 where designation of Wychwood Park was discussed. It is my understanding that a vote was taken at this meeting and that of the 47 ballots returned, 41 approved and 6 did not. The total number of ballots distributed was 53.

It is my understanding that the Wychwood Park Ratepayers held another meeting on April 14, 1983 attended by approximately 35-40 residents. The designation of Wychwood Park was discussed again and it was decided to hold a second vote this time by secret ballot to determine the degree of resident support for the designation. My understanding is that the results of this second ballot will be available after May 2. The residents may wish to convey the results to your Committee.

In my opinion all of the above events suggest that while Council could forward the Wychwood Park Heritage Conservation District Study to the Ministry for endorsement, designation of Wychwood Park as a Heritage Conservation District should not be undertaken until steps are taken to amend the Ontario Heritage Act.

The approval procedure embodied in the legislation is cumbersome. As it now stands, area residents would have to obtain a permit from Council for even the most minor external alteration to a building. Technically this could even involve painting. It is suggested this type of approval procedure would prove frustrating to residents and would not make effective use of staff and Council's time.

Wychwood Park already has strict development controls in force. The Park is zoned R1 Z1, has a 12-15 metre (40 and 50 foot) minimum lot frontage by-law and is under development control. In addition, because lots do not front on a public street, residents must go to the Committee of Adjustment to seek approval for any alterations.

In consideration of the above I am recommending that the designation of Wychwood Park as a Heritage Conservation District under the Ontario Heritage Act not be undertaken until steps can be taken to amend Part V of the Act to delegate decision making power to a Committee of Council or a person or body appointed by Council.

Recommendations:

It is recommended:

1. That the designation of Wychwood Park in the Official Plan as a Heritage Conservation District not be undertaken at least until suitable changes are made in the Ontario Heritage Act.

2. That 49 Burnside Drive and 16 Wychwood Park remain as part of the Wychwood Park Heritage Conservation District Study Area.

3. That the Commissioner of Planning and Development be requested to report further on the proposal to restrict future additional development to 3 new lots at 16 Wychwood Park, in consultation with the solicitor representing the F. K. Morrow estate, the Wychwood Park Trustees and the Toronto Historical Board.

4. That Council forward the Wychwood Park Heritage Conservation District Study report to the Ministry of Citizenship and Culture for endorsement.

5. That designation of Wychwood Park as a Heritage Conservation District not be undertaken until steps are taken to amend Part V of the Ontario Heritage Act.

6. That the Minister of Citizenship and Culture be requested to amend Part V of the Ontario Heritage Act in order to enable Council to pass a by-law delegating its decision making power respecting minor alterations either to a Committee of Council or to a person or body appointed by the Council and to enable a municipality in such by-law to define minor alterations.

Robert Millward
Deputy Commissioner

SA/pmw

Appendix A

Michael B. Vaughan
49 Burnside Drive
Toronto, Ontario M6G 2M9

April 20, 1983

Mr. Steven G. McLaughlin, Commissioner
Planning and Development Department
City of Toronto
East Tower, 20th Floor
City Hall
Toronto, Ontario
M5H 2N2

Dear Mr. McLaughlin:

Re: Proposed Designation of Wychwood Park
Area as a Heritage Conservation District
Under Part V of the Ontario Heritage Act

My wife and I own 49 Burnside Drive. The proposed designation would have a devastating effect on our property and I am setting out our objection in this letter.

Background

Wychwood Park is a totally private area. No member of the public has any right whatsoever to so much as set foot in it. The prohibition against public enjoyment is reinforced by forbidding signs at the entrance gates. In the center of the park lies a large house surrounded by extensive lawns owned by the estate of the late F. K. Morrow and known as number 16 Wychwood Park. Many, many years ago that property was divided into seven lots.

The motivation for the proposed historical designation as is apparent from item 19 in report 15 of the Committee on Buildings and Development as approved by City Council on August 18 and 20, 1980, is the desire of those property owners who look out on the lawns owned by the Morrow estate to prevent utilization of those existing lots for housing.

The Wychwood Park area is now subject to substantial development controls including the following:

(1) Minimum 50 foot lot frontage;

(2) Site plan control;

(3) The lots do not front on a private street; consequently no new building can be constructed as of oright but rezoning or Committee of Adjustment approval must be obtained subject to planning controls.

Procedural Cumbersomeness and Delay

I enclose:

(1) My letter of November 5, 1982 to Mr. Peter Russell;

(2) My letter of February 16, 1983 to Mr. Peter Russell;

(3) My letter of February 22, 1983 to the Neighbourhoods Committee.

The November 5 letter sets out the unnecessarily cumbersome procedure necessitated by the legislation in order to obtain permission to make even the most minor changes. As you know from the City Solicitor's report of February 17, 1983, he is of the view that all alteration applications would require the permission of Council. The planning consultant retained in connection with this matter advised a public meeting in Wychwood Park on November 9, 1982 that it was not the intention to require all such applications to be approved by Council and if that were the case, he would not support the designation until and unless the legislation were appropriately amended. A similar commitment was made by the Wychwood Park Organizing Committee.

Hardship

Issues of hardship are set out in my letter of February 16, including legal and insurance risks. I now understand that if special by-law insurance is available for losses caused by the delays and uncertainties, it will cost in excess of $1,000.00 per year with respect to my property.

Inappropriateness

As is evident from my February 22 letter to the Neighbourhoods Committee, the proposed designation is inappropriate. Forty percent of the houses have been constructed after World War I and 10 percent since 1950. The precedent implications are horrendous. The reasons for designation relate far more to the roadway and terrain than to the individual houses and if it is thought appropriate at all to proceed with the designation, the buildings ought to be excluded. If they are included, the designation would have virtually irresistable precedent implications for very many other areas of the City with far more significant buildings and streetscapes that include buildings older than those in Wychwood,

more attractive than those in Wychwood and buildings related to historic events unlike any building in Wychwood.

The real rationale for the designation is to use public power to, in effect expropriate the development rights of a dead man's private property, not for the public benefit but for the private benefit of those private property owners who face that property. It is accepted that there are many instances in which it is appropriate to use public power to secure public benefits in derogation of private rights. Remembering, though, that the public has no right whatsoever to enter Wychwood Park, one must question whether it is proper to use public power to take away the rights of one person in order to confer private benefits on others.

Divisive

My letter of November 5 and the City Solicitor's opinion have not been circulated or disclosed to the people of Wychwood Park and they may therefore not be aware of the consequences of designation. Although the designation is sponsored by those who face the Morrow property at 16 Wychwood, it is opposed, I understand, by virtually all the major property owners in the park and is a highly controversial and divisive issue.

49 Burnside Drive Should be Excluded

(1) The property owned by my wife and I at 49 Burnside Drive represents the protrusion from the southeast corner of the area proposed for designation.

(2) Our property is located on Burnside Drive, not on Wychwood Park. Only one property on Burnside Drive, the property at 51 Burnside Drive, actually backs onto the Wychwood Park. But that property is not proposed for designation. All the other properties on the west side of Burnside Drive including our own, do not either front onto or back onto Wychwood Park. There is therefore no more reason for designating our property than any of those other properties and, indeed, less reason for designating our property than the property at 51 Burnside Drive.

(3) As can been seen from pages 5 and 6 of the Conservation District Study, the reasons for designating the houses in the park is that they are built in accordance with the fundamental principle that they should blend into the site and into nature, that is, into the landscape. Number 49 Burnside Drive is specifically identified as being incompatible in that context inasmuch as it is "prominent in the landscape".

(4) There is no meaningful vehicular access between our property and Wychwood Park as the responsible officials in the park do not maintain or keep clear in winter the back driveway between my property and the park.

(5) The only argument made for inclusion of our property is that part, not all of it, was included in the original Wychwood Park as laid out in 1891 as was the entire area of Davenport south of the park, Braemore Gdns. and Christie Street to the west. There is no more argument for including our property in the park than those other properties which have been excluded from the proposed designation.

(6) It is inequitable to be required to pay extra insurance premiums for by-law coverage.

May I request that this letter and attachments be appended to your report.

Thank you.

Appendix B

Stanley B. Stein
Weir and Foulds
Barristers and Solicitors

March 31, 1983

Mr. Paul Bedford,
Department of Planning &
Development,
18th Floor, East Tower,
City Hall,
Toronto, Ontario
M5H 2N2

Dear Mr. Bedford:

Re: Wychwood Park - Proposed Heritage Conservation District

We act on behalf of the Estate of F.K. Morrow, the owner of 16 Wychwood Park. We have reviewed the Consultant's report and have given consideration to the relevant provisions of the Ontario Heritage Act with respect to the proposed designation of the Wychwood Park area as a Heritage Conservation District.

Through this letter, we wish to confirm that the Trustees of the Estate are opposed to the area being designated as a Heritage Conservation District.

Although the area has unique features of land ownership and contains numerous styles of architecture, it has no outstanding historical or architectural features which would justify its designation as an historic or heritage district. It is a handsome neighbourhood, but there are many areas of the City, for example sections of Rosedale, or the Annex which similarly contain quality structures designed by architects and fine landscaping which make them picturesque. The planner's report does not identify any matters of specific heritage and it appears that no houses within Wychwood Park have been designated under the Act and only three houses have been listed on the Inventory of Buildings of Architectural and Historical Importance.

It is also important to understand the legal context and the serious implications of the proposed Heritage Conservation District. Under Section 42 of the Ontario Heritage Act, the Council of the municipality must pass upon every application to erect, demolish or remove any building or structure within the

Heritage Conservation District. There is a right of appeal to the Ontario Municipal Board pursuant to Section 44, but in the case of an application to erect a building or alter the external portion thereof, the Board may simply dismiss an appeal from the City Council's refusal to issue a permit and the owner would therefore not be able to carry out this work.

From the standpoint of presevation of the existing character of the area, Section 44(2) of the Act only provides for a delay of 180 days from the refusal of Council, following which the owner may proceed to demolish the building. Apart from the possibility of delaying the demolition of existing structures, the Act does not provide any lasting protection to the existing structures in the neighbourhood, but imposes potential hardships on owners who may wish to erect new buildings or alter existing structures.

From a planning standpoint, the administration of the Heritage Conservation District may also prove to be difficult and cumbersome. The requirement for Council approval will introduce a procedure of staff reporting the the exercise of discretion by Council on every application for the erection, demolition or alteration of any building in Wychwood Park. There are no other areas of the City subject to the intensity of examination that would be embarked upon by the proposed designation. This level of interference with private decisions and utilization of land may be appropriate where there is an area under one or two ownerships with a more clearly defined basis for the Heritage Designation. However, Wychwood Park presently has 53 houses and the utilization of lands by all of these owners would come under scrutiny by the planning staff and the City Council. This introduces questions of uncertainty, cost and inconvenience which in our view are not justified for this area.

The area is presently controlled by a new Part II Official Plan and the City's most restrictive residential zoning classification. There is no perceived threat to the character of the area. There is always the possibility of development of existing lots within the framework of the existing zoning. However, the City's usual development review restrictions are applicable to this area so that some measure of control is provided.

Viewing the purpose of the Act as a whole we believe that the level of "uniqueness" of Wychwood Park is not sufficient to warrant the designation of the area as a Heritage Conservation District. The area has not been identified for significant architecture, for a battlefield, or for any historic, social, cultural or political event. The proposal for designation should not be supported without more adequate foundation, particularly in

view of the serious restrictions which it will impose upon land owners.

As owners of a major area within Wychwood Park, we believe our clients are entitled to the historic rights of their plan of subdivision. There are an abundance of controls on land use within the City of Toronto to accomplish all reasonable objectives of the municipality. The Trustees of the Estate desire to keep their position as flexible as possible within the structure of the existing planning documents and vigorously oppose the concept that the Wychwood Park area be designated a Heritage Conservation District.

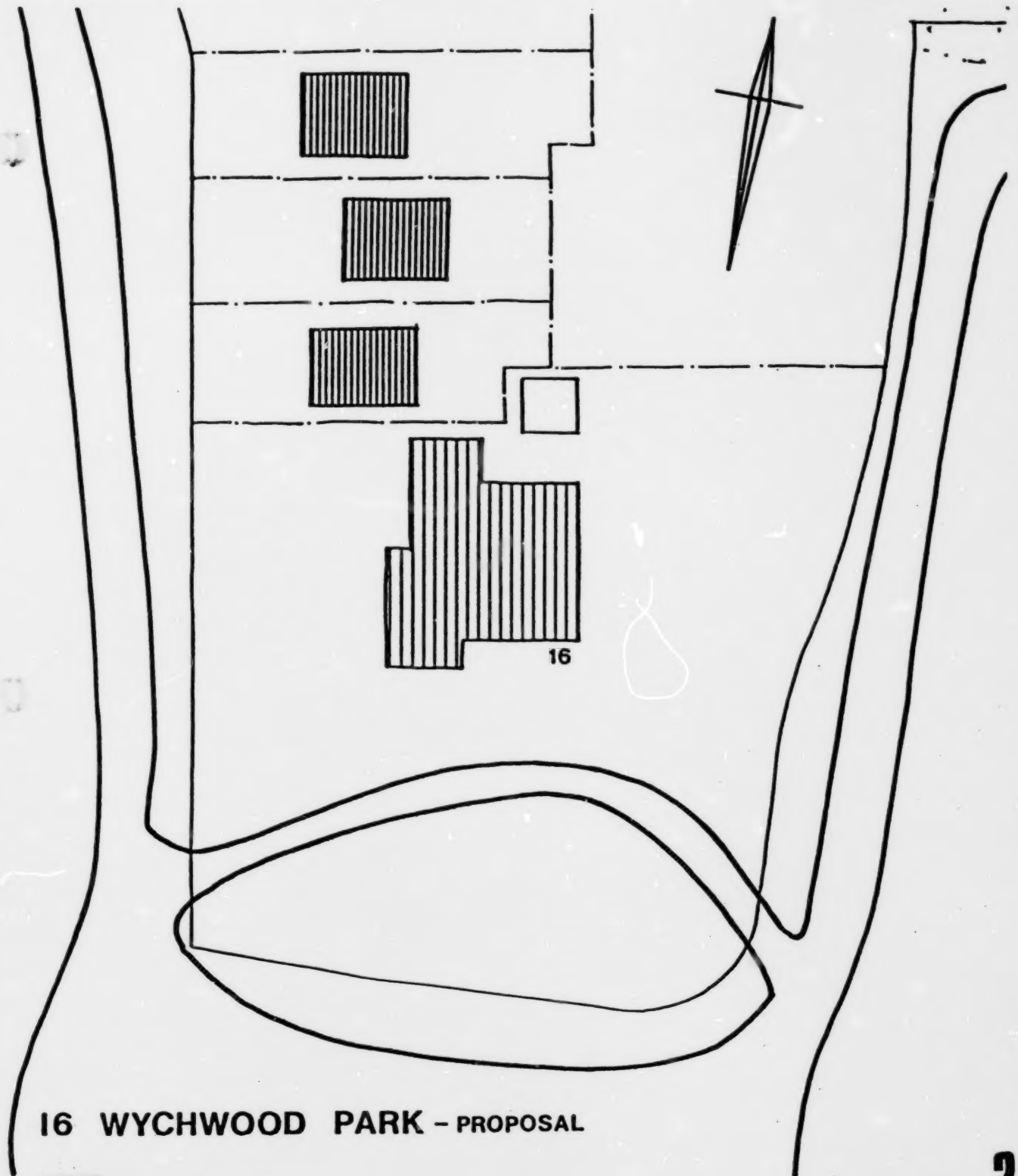
We understand that you will be preparing a report to the Land Use Committee in the near future, and we would like to be noted as an interested party so that we can receive a copy of that report and any Minutes which may flow from Committee and Council meetings which consider this matter. Would you kindly keep us advised of any other developments respecting the Heritage Conservation District proposal. We are also taking the liberty of sending a copy of this letter to the City Clerk's office so they will have notice of our interest and will be able to place us on the mailing list for this matter.

EXISTING LOTS

Sites where significant additions are permitted under current Zoning

Unbuilt Lots of Record

0 10 30 50 100 150 300 ft.



16 WYCHWOOD PARK – PROPOSAL

Existing House

Possible New Development

0 10 25 50 100 ft.

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